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SENATE BILL 88

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Carlos R. Cisneros

FOR THE

REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AND THE

CORRECTIONS OVERSIGHT AND JUSTICE COMMITTEE

AN ACT

RELATING TO TAXATION; REORGANIZING COUNTY LOCAL OPTION GROSS RECEIPTS TAXES; EXPANDING COUNTY GROSS RECEIPTS TAX AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-20E-9 NMSA 1978 (being Laws 1983, Chapter 213, Section 30, as amended) is amended to read:

"7-20E-9. COUNTY GROSS RECEIPTS TAX-- AUTHORITY TO IMPOSE RATE-- INDIGENT FUND REQUIREMENTS. --

A. A majority of the members of the governing body of a county may enact an ordinance imposing an excise tax not to exceed a rate of [~~three eighths of one~~] seven-sixteenths percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. An ordinance imposing an excise tax pursuant to this section shall impose the tax in three

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1 independent increments of one-eighth percent and one
2 independent increment of one-sixteenth percent, which shall be
3 separately denominated as "the first one-eighth increment",
4 "the second one-eighth [and] increment", "the third one-eighth
5 increment" and "the one-sixteenth increment", respectively, not
6 to exceed an aggregate amount of [~~three-eighths~~] seven-
7 sixteenths percent.

8 B. The tax authorized in Subsection A of this
9 section is to be referred to as the "county gross receipts
10 tax".

11 C. A class A county with a county hospital operated
12 and maintained pursuant to a lease with a state educational
13 institution named in Article 12, Section 11 of the constitution
14 of New Mexico enacting the second one-eighth increment of
15 county gross receipts tax shall provide, each year that the tax
16 is in effect, not less than one million dollars (\$1,000,000) in
17 funds, and that amount shall be dedicated to the support of
18 indigent patients who are residents of that county. Funds for
19 indigent care shall be made available each month of each year
20 the tax is in effect in an amount not less than eighty-three
21 thousand three hundred thirty-three dollars thirty-three cents
22 (\$83,333.33). The interest from the investment of county funds
23 for indigent care may be used for other assistance to indigent
24 persons, not to exceed twenty thousand dollars (\$20,000) for
25 all other assistance in any year.

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1 D. A county, except a class A county with a county
2 hospital operated and maintained pursuant to a lease with a
3 state educational institution named in Article 12, Section 11
4 of the constitution of New Mexico, imposing the second one-
5 eighth increment of county gross receipts tax shall be required
6 to dedicate the entire amount of revenue produced by the
7 imposition of the second one-eighth increment for the support
8 of indigent patients who are residents of that county. The
9 revenue produced by the imposition of the third one-eighth
10 increment and the one-sixteenth increment may be used for
11 general purposes. Any county that has imposed the second one-
12 eighth increment or the third one-eighth increment, or both, on
13 January 1, 1996 for support of indigent patients in the county
14 or after January 1, 1996 imposes the second one-eighth
15 increment or imposes the third one-eighth increment and
16 dedicates one-half of that increment for county indigent
17 patient purposes shall deposit the revenue dedicated for county
18 indigent purposes in the county indigent hospital claims fund
19 and such revenues shall be expended pursuant to the Indigent
20 Hospital and County Health Care Act. "

21 Section 2. Section 7-20E-10 NMSA 1978 (being Laws 1983,
22 Chapter 213, Section 32, as amended) is amended to read:

23 "7-20E-10. COUNTY GROSS RECEIPTS TAX--REFERENDUM
24 REQUIREMENTS. --

25 A. An ordinance enacting the first or third

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1 one-eighth increment or the one-sixteenth increment of county
2 gross receipts tax pursuant to Section 7-20E-9 NMSA 1978 shall
3 go into effect on July 1 or January 1 in accordance with the
4 provisions of the County Local Option Gross Receipts Taxes Act,
5 but an election may be called in the county on the question of
6 approving or disapproving that ordinance as follows:

7 (1) an election shall be called when:

8 (a) in a county having a referendum
9 provision in its charter, a petition requesting such an
10 election is filed pursuant to the requirements of that
11 provision in the charter and signed by the number of registered
12 voters in the county equal to the number of registered voters
13 required in its charter to seek a referendum; and

14 (b) in all other counties, a petition
15 requesting such an election is filed with the county clerk
16 within thirty days of enactment of the ordinance by the
17 governing body and the petition has been signed by a number of
18 registered voters in the county equal to at least five percent
19 of the number of the voters in the county who were registered
20 to vote in the most recent general election;

21 (2) the signatures on the petition requesting
22 an election shall be verified by the county clerk. If the
23 petition is verified by the county clerk as containing the
24 required number of signatures of registered voters, the
25 governing body shall adopt a resolution calling an election on

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1 the question of approving or disapproving the ordinance. The
2 election shall be held within sixty days after the date the
3 petition is verified by the county clerk, or it may be held in
4 conjunction with a general election if that election occurs
5 within sixty days after the date of the verification. The
6 election shall be called, held, conducted and canvassed in
7 substantially the same manner as provided by law for general
8 elections; and

9 (3) if a majority of the registered voters
10 voting on the question approves the ordinance imposing the
11 [~~first one-eighth~~] increment of county gross receipts tax, the
12 ordinance shall go into effect on July 1 or January 1 in
13 accordance with the provisions of the County Local Option Gross
14 Receipts Taxes Act. If at such an election a majority of the
15 registered voters voting on the question disapproves the
16 ordinance, the ordinance imposing the tax shall be deemed
17 repealed and the question of imposing the [~~first one-eighth~~]
18 increment of the county gross receipts tax shall not be
19 considered again by the governing body for a period of one year
20 from the date of the election.

21 B. Imposition by any county of the second
22 one-eighth increment of county gross receipts tax shall not be
23 subject to a referendum of any kind unless prescribed by the
24 county charter or the governing body of the county.

25 [~~C. An ordinance imposing the third one-eighth~~

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1 ~~increment of the county gross receipts tax by any county shall~~
2 ~~not go into effect until after an election is held and a simple~~
3 ~~majority of the registered voters of the county voting on the~~
4 ~~question votes in favor of imposing the third one-eighth~~
5 ~~increment. The governing body shall adopt a resolution calling~~
6 ~~for an election within seventy-five days of the date the~~
7 ~~ordinance is adopted on the question of imposing the tax. Such~~
8 ~~question may be submitted to the voters and voted upon as a~~
9 ~~separate question at any general election or at any special~~
10 ~~election called for that purpose by the governing body. The~~
11 ~~election upon the question shall be called, held, conducted and~~
12 ~~canvassed in substantially the same manner as may be provided~~
13 ~~by law for general elections. If the question of imposing the~~
14 ~~third one-eighth increment of the county gross receipts tax~~
15 ~~fails, the governing body shall not again propose a third~~
16 ~~one-eighth increment of the county gross receipts tax for a~~
17 ~~period of one year after the election.]"~~

18 Section 3. Section 7-20E-15 NMSA 1978 (being Laws 1979,
19 Chapter 398, Section 3, as amended) is amended to read:

20 "7-20E-15. COUNTY FIRE PROTECTION EXCISE TAX-- AUTHORITY
21 TO IMPOSE-- ORDINANCE REQUIREMENTS. --

22 A. The majority of the members of the governing
23 body may enact an ordinance imposing an excise tax on any
24 person engaging in business in the county area for the
25 privilege of engaging in business. The rate of the tax shall

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1 be one-fourth [~~of one~~] percent or one-eighth [~~of one~~] percent
2 of the gross receipts of the person engaging in business. [The
3 tax provided in this section shall be imposed for a period of
4 not more than ten years from the effective date of the
5 ordinance imposing the tax. Having once enacted an ordinance
6 under this section, the governing body may enact subsequent
7 ordinances for succeeding periods of not more than five years,
8 provided each such ordinance meets the requirements of the
9 County Local Option Gross Receipts Taxes Act with respect to
10 the tax imposed by this section.]

11 B. This tax is to be referred to as the "county
12 fire protection excise tax".

13 C. The governing body of a county shall, at the
14 time of enacting an ordinance imposing the rate of the tax
15 authorized in Subsection A of this section, dedicate the
16 revenue for the purpose of financing the operational expenses,
17 ambulance services or capital outlay costs of independent fire
18 districts or ambulance services provided by the county. In any
19 election held, the ballot shall clearly state the purpose to
20 which the revenue will be dedicated and shall be used by the
21 county for that purpose.

22 D. Any ordinance enacted under the provisions of
23 Subsection A of this section shall include an effective date of
24 either July 1 or January 1 in accordance with the provisions of
25 the County Local Option Gross Receipts Taxes Act.

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1 E. The ordinance shall not go into effect until
2 after an election is held and a simple majority of the
3 qualified electors of the county area voting in the election
4 votes in favor of imposing the county fire protection excise
5 tax. The governing body shall adopt a resolution calling for
6 an election within seventy-five days of the date the ordinance
7 is adopted on the question of imposing the tax. Such question
8 may be submitted to the qualified electors and voted upon as a
9 separate question at any special election called for that
10 purpose by the governing body. The election upon the question
11 shall be called, held, conducted and canvassed in substantially
12 the same manner as provided by law for general elections. If
13 the question of imposing a county fire protection excise tax
14 fails, the governing body shall not again propose a county fire
15 protection excise tax for a period of one year after the
16 election. "

17 Section 4. Section 7-20E-22 NMSA 1978 (being Laws 2002,
18 Chapter 14, Section 1, as amended) is amended to read:

19 "7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY
20 MEDICAL SERVICES TAX--AUTHORITY TO IMPOSE COUNTYWIDE OR ONLY IN
21 THE COUNTY AREA--ORDINANCE REQUIREMENTS--USE OF REVENUE--
22 ELECTION.--

23 A. The majority of the members of the governing
24 body of an eligible county that does not have in effect a tax
25 imposed pursuant to Subsection B of this section may enact an

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1 ordinance imposing an excise tax at a rate not to exceed one-
2 fourth percent of the gross receipts of a person engaging in
3 business in the county for the privilege of engaging in
4 business. The tax imposed by this subsection may be referred
5 to as the "countywide emergency communications and emergency
6 medical services tax".

7 B. The majority of the members of the governing
8 body of an eligible county that does not have in effect a tax
9 imposed pursuant to Subsection A of this section may enact an
10 ordinance imposing an excise tax at a rate not to exceed
11 one-fourth percent of the gross receipts of a person engaging
12 in business in the county area for the privilege of engaging in
13 business. The tax imposed by this subsection may be referred
14 to as the "county area emergency communications and emergency
15 medical services tax".

16 C. The tax authorized in Subsections A and B of
17 this section may be imposed in one or more increments of
18 one-sixteenth percent not to exceed an aggregate rate of
19 one-fourth percent. ~~[The tax shall be imposed for a period of~~
20 ~~not more than ten years from the effective date of the~~
21 ~~ordinance imposing the tax. Having once enacted an ordinance~~
22 ~~under this section, the governing body may enact subsequent~~
23 ~~ordinances for succeeding periods of not more than ten years,~~
24 ~~provided each such ordinance meets the requirements of the~~
25 ~~County Local Option Gross Receipts Taxes Act with respect to~~

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1 ~~the tax imposed by this section.]~~

2 D. The governing body, at the time of enacting an
3 ordinance imposing a rate of tax authorized in Subsection A or
4 B of this section, shall dedicate the revenue to one or both of
5 the following purposes:

6 (1) operation of an emergency communications
7 center that has been determined by the local government
8 division of the department of finance and administration to be
9 a consolidated public safety answering point; or

10 (2) operation of emergency medical services
11 provided by the county.

12 E. An ordinance imposing any increment of the
13 countywide emergency communications and emergency medical
14 services tax or the county area emergency communications and
15 emergency medical services tax shall not go into effect until
16 after an election is held and a majority of the voters voting
17 in the election vote in favor of imposing the tax. In the case
18 of an ordinance imposing an increment of the countywide
19 emergency communications and emergency medical services tax,
20 the election shall be conducted countywide. In the case of an
21 ordinance imposing the county area emergency communications and
22 emergency medical services tax, the election shall be conducted
23 only in the county area. The governing body shall adopt a
24 resolution calling for an election within seventy-five days of
25 the date the ordinance is adopted on the question of imposing

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1 the tax. The question may be submitted to the voters as a
2 separate question at a general election or at a special
3 election called for that purpose by the governing body. A
4 special election shall be called, conducted and canvassed in
5 substantially the same manner as provided by law for general
6 elections. In any election held, the ballot shall clearly
7 state the purpose to which the revenue will be dedicated
8 pursuant to Subsection D of this section. If a majority of the
9 voters voting on the question approve the imposition of the
10 countywide emergency communications and emergency medical
11 services tax or the county area emergency communications and
12 emergency medical services tax, the ordinance shall become
13 effective in accordance with the provisions of the County Local
14 Option Gross Receipts Taxes Act. If the question of imposing
15 the tax fails, the governing body shall not again propose the
16 imposition of any increment of either tax for a period of one
17 year from the date of the election.

18 F. For the purposes of this section, "eligible
19 county" means a county that operates or, pursuant to a joint
20 powers agreement, is served by an emergency communications
21 center that has been determined by the local government
22 division of the department of finance and administration to be
23 a consolidated public safety answering point. "

24 Section 5. Section 7-20F-2 NMSA 1978 (being Laws 1993,
25 Chapter 303, Section 2, as amended) is amended to read:

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1 "7-20F-2. DEFINITIONS. -- As used in the County
2 Correctional Facility Gross Receipts Tax Act:

3 A. "county" means

4 [~~(1) a class A county, the population of which~~
5 ~~does not exceed one hundred fifty thousand people as determined~~
6 ~~by the 1990 federal decennial census;~~

7 ~~(2) a class B county with a population of at~~
8 ~~least fifty-seven thousand people but less than sixty thousand~~
9 ~~as determined by the 1990 federal decennial census; or~~

10 ~~(3) a class B county with a population of at~~
11 ~~least forty-five thousand people but less than forty-seven~~
12 ~~thousand as determined by the 1990 federal decennial census] a~~
13 county of New Mexico;

14 B. "county board" means the board of county
15 commissioners of a county;

16 C. "department" means the taxation and revenue
17 department, the secretary of taxation and revenue or any
18 employee of the department exercising authority lawfully
19 delegated to that employee by the secretary;

20 D. "judicial-correctional facility" means a
21 facility for housing and use by judicial and corrections
22 agencies, including housing for persons confined in county
23 [~~corrections~~] correctional facilities; however, none of the
24 facilities are required to be located on the same or contiguous
25 parcels of land;

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1 E. "municipality" means any incorporated city, town
2 or village, whether incorporated under general act, special act
3 or special charter;

4 F. "person" means an individual or any other legal
5 entity;

6 G. "pledged revenues" means the revenue, net income
7 or net revenues authorized to be pledged to the payment of
8 revenue bonds issued pursuant to the provisions of the County
9 Correctional Facility Gross Receipts Tax Act;

10 H. "refunding bond" means a refunding revenue bond
11 issued pursuant to the provisions of the County Correctional
12 Facility Gross Receipts Tax Act to refund revenue bonds issued
13 pursuant to the provisions of that act; and

14 I. "revenue bond" means a county correctional
15 facility gross receipts tax revenue bond. "

16 Section 6. Section 7-20F-3 NMSA 1978 (being Laws 1993,
17 Chapter 303, Section 3, as amended) is amended to read:

18 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
19 TAX-- AUTHORITY TO IMPOSE-- RATE-- ORDINANCE REQUIREMENTS--
20 REFERENDUM --

21 A. The majority of the members elected to the
22 county board may enact an ordinance imposing on a countywide
23 basis an excise tax not to exceed a rate of one-eighth [~~of one~~]
24 percent of the gross receipts of any person engaging in
25 business in the county, including all municipalities within the

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1 county ~~[provided that the voters of:~~

2 ~~(1) a class A county described in Paragraph~~
3 ~~(1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B~~
4 ~~county described in Paragraph (2) of Subsection A of Section~~
5 ~~7-20F-2 NMSA 1978 have approved the issuance of general~~
6 ~~obligation bonds of the county sufficient to pay at least~~
7 ~~one-half of the costs of the construction and equipping of the~~
8 ~~new county judicial correctional facility for which the county~~
9 ~~correctional facility gross receipts tax revenue is dedicated;~~
10 ~~or~~

11 ~~(2) a class B county described in Paragraph~~
12 ~~(3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved~~
13 ~~the issuance of bonds by the New Mexico finance authority~~
14 ~~sufficient to pay at least one-half of the costs of designing,~~
15 ~~constructing, equipping, furnishing and otherwise improving the~~
16 ~~new county correctional facility for which the county~~
17 ~~correctional facility gross receipts tax revenue is dedicated].~~

18 B. The tax imposed pursuant to Subsection A of this
19 section may be referred to as the "county correctional facility
20 gross receipts tax". The county correctional facility gross
21 receipts tax shall be imposed only once for the period
22 necessary for payment of the principal and interest on revenue
23 bonds issued pursuant to the County Correctional Facility Gross
24 Receipts Tax Act ~~[but the period shall not exceed ten years~~
25 ~~from the effective date of the ordinance imposing the tax].~~

. 149591. 1

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1 C. Any ordinance imposing a county correctional
2 facility gross receipts tax pursuant to this section shall:

3 (1) impose the tax in any number of increments
4 of one-sixteenth [~~of one~~] percent not to exceed an aggregate
5 amount of one-eighth [~~of one~~] percent;

6 (2) specify that the imposition of the tax
7 will begin on either July 1 or January 1, whichever occurs
8 first after the expiration of at least three months from the
9 date that the department is notified personally or by mail by
10 the county [~~that imposition of the county correctional facility~~
11 ~~gross receipts tax has been approved by a majority of the~~
12 ~~registered voters in the county voting on the question~~] of
13 adoption of the ordinance; and

14 (3) dedicate the revenue from the county
15 correctional facility gross receipts tax:

16 (a) for the purpose of operating,
17 maintaining, constructing, purchasing, furnishing, equipping,
18 rehabilitating, expanding or improving a judicial-correctional
19 or a county correctional facility or the grounds of a judicial-
20 correctional or county correctional facility, including [~~but~~
21 ~~not limited to~~] acquiring and improving parking lots,
22 landscaping or any combination of the foregoing;

23 (b) for the purpose of transporting or
24 extraditing prisoners; or

25 (c) to payment of principal and interest

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1 on revenue bonds or refunding bonds issued pursuant to the
2 provisions of the County Correctional Facility Gross Receipts
3 Tax Act.

4 D. An ordinance imposing a county correctional
5 facility gross receipts tax pursuant to this section shall [~~not~~
6 ~~become effective until after an election is held and a simple~~
7 ~~majority of the qualified electors of the county voting in the~~
8 ~~election votes in favor of imposing the tax.~~

9 E. ~~The governing body shall adopt a resolution~~
10 ~~calling for an election within seventy-five days of the date~~
11 ~~the ordinance is adopted on the question of imposing the tax,~~
12 ~~and:~~

13 ~~(1) in a class A county described in Paragraph~~
14 ~~(1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B~~
15 ~~county described in Paragraph (2) of Subsection A of Section~~
16 ~~7-20F-2 NMSA 1978, if a property tax at a rate necessary to~~
17 ~~comply with the provisions of Subsection A of this section has~~
18 ~~not been approved by the voters of the county, the question~~
19 ~~submitted to the voters shall be the question of imposing a~~
20 ~~county correctional facility gross receipts tax and a property~~
21 ~~tax at a rate necessary for the issuance of general obligation~~
22 ~~bonds of the county sufficient to comply with the provisions of~~
23 ~~the County Correctional Facility Gross Receipts Tax Act; or~~

24 ~~(2) in a class B county described in Paragraph~~
25 ~~(3) of Subsection A of Section 7-20F-2 NMSA 1978, the question~~

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1 ~~to be submitted to the voters is "Shall a county correctional~~
2 ~~facility gross receipts tax be imposed to repay bonds that will~~
3 ~~be issued by the New Mexico finance authority in an amount~~
4 ~~sufficient to pay at least one-half of the costs of designing,~~
5 ~~constructing, equipping, furnishing and otherwise improving the~~
6 ~~new county correctional facility?"~~.

7 ~~F. The question shall be submitted to the voters at~~
8 ~~any general election or special election called for that~~
9 ~~purpose by the board.~~

10 ~~G. The election upon the question shall be called,~~
11 ~~held, conducted and canvassed in substantially the same manner~~
12 ~~as may be provided by law for general elections.~~

13 ~~H. If the question of imposing the county~~
14 ~~correctional facility gross receipts tax and a property tax, if~~
15 ~~the question includes a property tax, fails, the board shall~~
16 ~~not again propose imposition of a county correctional facility~~
17 ~~gross receipts tax for a period of one year after the election]~~
18 go into effect on July 1 or January 1 in accordance with the
19 provisions of Paragraph (2) of Subsection C of this section,
20 but an election may be called in the county on the question of
21 approving or disapproving that ordinance as follows:

22 (1) an election shall be called when:

23 (a) in a county having a referendum
24 provision in its charter, a petition requesting such an
25 election is filed pursuant to the requirements of that

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1 provision in the charter and signed by the number of registered
2 voters in the county equal to the number of registered voters
3 required in its charter to seek a referendum; and

4 (b) in all other counties, a petition
5 requesting such an election is filed with the county clerk
6 within thirty days of enactment of the ordinance by the
7 governing body and the petition has been signed by a number of
8 registered voters in the county equal to at least five percent
9 of the number of the voters in the county who were registered
10 to vote in the most recent general election;

11 (2) the signatures on the petition requesting
12 an election shall be verified by the county clerk. If the
13 petition is verified by the county clerk as containing the
14 required number of signatures of registered voters, the
15 governing body shall adopt a resolution calling an election on
16 the question of approving or disapproving the ordinance. The
17 election shall be held within sixty days after the date the
18 petition is verified by the county clerk, or it may be held in
19 conjunction with a general election if that election occurs
20 within sixty days after the date of the verification. The
21 election shall be called, held, conducted and canvassed in
22 substantially the same manner as provided by law for general
23 elections; and

24 (3) if a majority of the registered voters
25 voting on the question approves the ordinance, the ordinance

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1 shall go into effect on July 1 or January 1 in accordance with
2 the provisions of Paragraph (2) of Subsection C of this
3 section. If at such an election a majority of the registered
4 voters voting on the question disapproves the ordinance, the
5 ordinance imposing the tax shall be deemed repealed and the
6 question of imposing the tax shall not be considered again by
7 the governing body for a period of one year from the date of
8 the election.

9 ~~[I-]~~ E. If the county has pledged the revenue from
10 imposition of the county correctional facilities gross receipts
11 tax to the repayment of bonds or other indebtedness, revenue
12 produced by the imposition of a county correctional facility
13 gross receipts tax that is in excess of the annual principal
14 and interest due on bonds secured by a pledge of the county
15 correctional facility gross receipts tax may be accumulated in
16 a debt service reserve account until an amount equal to the
17 maximum amount permitted pursuant to the provisions of the
18 United States treasury regulations is accumulated in the debt
19 service reserve account. After the debt service reserve
20 account requirements have been met, the excess revenue shall be
21 accumulated in an extraordinary mandatory redemption fund and
22 annually used to redeem the bonds prior to their stated
23 maturity date.

24 ~~[J-]~~ F. If the county has pledged the revenue from
25 imposition of the county correctional facilities gross receipts

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1 tax to the repayment of bonds or other indebtedness, when all
2 outstanding bonds have been paid, whether from the debt service
3 reserve, the redemption fund or maturity, the ordinance shall
4 be repealed if the county correctional facility gross receipts
5 tax revenue is no longer required for the purposes for which it
6 may be used pursuant to the provisions of the County
7 Correctional Facility Gross Receipts Tax Act.

8 [K-] G. The repeal of an ordinance imposing a
9 county correctional facility gross receipts tax shall state
10 that the repeal shall be effective on January 1 or July 1,
11 whichever occurs first following the date the department is
12 notified personally or by mail by the county of the repeal."

13 Section 7. EFFECTIVE DATE. --The effective date of the
14 provisions of this act is July 1, 2004.